

**Merchant & Gould**

An Intellectual Property Law Firm

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**Fax Transmission**

August 15, 2007

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CENTRAL FAX CENTER

TO:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

FROM: Gregory A. Sebald

AUG 15 2007

OUR REF: 00787.0187USC1

TELEPHONE: 612.332.5300

Total pages, including cover letter: 19PTO FAX NUMBER 1- 571-273-8300

If you do NOT receive all of the pages, please telephone us at 612.332.5300, or fax us at 612.332.9081.

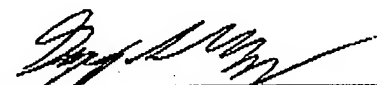
Title of Document Transmitted:

-Petition to Withdraw Notice of Abandonment  
-Amendment  
-Petition for Extension of Time  
-Copy of Notice of Non-Compliant Amendment  
-Copy of Notice of Abandonment

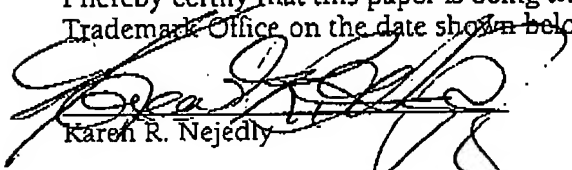
Applicant: Kenneth R. SMITH  
Serial No.: 10/848,833  
Filed: May 17, 2004  
Group Art Unit: 3618  
Our Ref. No. 00787.0187USC1  
Confirmation No. 4799

Please charge Deposit Account No. 13-2725 in the amount of \$1,080.00 for a five month extension of time for a small entity.

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By:   
Name: Gregory A. Sebald  
Reg. No.: 33,280

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

  
Karen R. Nejedly  
Date

GEN033.DOT

S/N 10/848,833

PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kenneth R. SMITH	Examiner:	Bridget D. Avery	RECEIVED CENTRAL FAX CENTER AUG 15 2007
Serial No.:	10/848,833	Group Art Unit:	3618	
Filed:	May 17, 2004	Docket No.:	00787.0187USC1	
Title:	PIVOTAL HANDLE FOR A FOOD SERVICE TABLE			

CERTIFICATE UNDER 37 C.F.R. 1.6(d): The undersigned hereby certifies that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office on August 15, 2007.

By:   
Name: Karen R. Nejedly

PETITION TO  
WITHDRAW NOTICE OF ABANDONMENT  
UNDER 37 C.F.R. § 1.181(a)

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests withdrawal of the Notice of Abandonment mailed July 6, 2007. Applicant filed a response to an outstanding Office Action on January 25, 2007. In response to that Office Action, a Notice of Non-Compliant Amendment was mailed to Applicant's Representative on February 16, 2007. Applicant's Representatives office never received the Notice of Non-Compliant Amendment. The Notice of Non-Compliant Amendment stated that a complete listing of claims had not been submitted. Applicant notes that claims 1-11 had been cancelled but were not listed in the Amendment. A Notice of Abandonment was mailed on July 6, 2007 for failure to respond to the Office Action.

Applicant respectfully asserts that the application has not yet gone abandoned. The Notice of Non-Compliant Amendment states Applicant is given one month from the mailing date of the notice. The Notice of Non-Compliant Amendment also states that extensions of time are available under 37 C.F.R. § 1.136(a) if the Non-Compliant Amendment is a Non-Final

U.S. Patent Application Serial No. 10/848,833  
Petition to Withdraw Notice of Abandonment

Amendment or an Amendment filed in response to a *Quayle* Action. Applicant asserts that the Non-Compliant Amendment does not follow a Final Office Action and that extensions of time are available from the Notice of Non-Compliant Amendment until August 16, 2007. Applicant has included an Amendment that is believed to be compliant as well as the appropriate petition for extension of time and fee. Applicant respectfully asserts that the Application is still pending and that the Notice of Abandonment be withdrawn.

A speedy and favorable decision on the Petition is hereby solicited. If a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.



Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: \_\_\_\_\_

8/16/07

By: \_\_\_\_\_

Gregory A. Sebold  
Reg. No. 33,280  
GAS/km

<b>Notice of Non-Compliant Amendment (37 CFR 1.121)</b>	Application No. <b>10/848833</b>	Applicant(s) <b>RECEIVED CENTRAL FAX CENTER AUG 15 2007</b>	
	Examiner <b>Avery, B.</b>	Art Unit <b>3618</b>	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

The amendment document filed on **1-25-07** is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

**THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:**

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract
  - ☐ A. Not presented on a separate sheet 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

- Applicant is given no new time period if the non-compliant amendment is an after-final amendment, an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted.
- Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

- Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or
- Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Ms. Richards  
 Legal Instruments Examiner (LIE), if applicable
 

X-21612  
 Telephone No.

Part of Paper No. \_\_\_\_\_

AUG-15-07

04:33PM

FROM-Merchant &amp; Gould

6123329081

T-634 P.006/019 F-769



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,833	05/17/2004	Kenneth R. Smith	787.187USC1	4799

EXAMINER	
AVERY, BRIDGET D	

ART UNIT	PAPER NUMBER
361K	

MAIL DATE	DELIVERY MODE
07/06/2007	PAPER

7590 07/06/2007

Gregory A. Sebald  
 MERCHANT & GOULD P.C.  
 P.O. Box 2903  
 Minneapolis, MN 55402-0903

*GAS*

*Revival 6mo; March 07, 2008*  
*Final Revival: Sept. 07, 2007 D-*

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PROLAW

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AUG 15 2007

**Notice of Abandonment**

Application No.

10/848,833

Examiner

Bridget Avery

Applicant(s)

SMITH, KENNETH R.

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 07 September 2006.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☒ A reply was received on 25 January 2007 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Applicant has failed to respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on February 16, 2007.



**BRIDGET AVERY**  
PATENT EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office  
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 20070625